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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/922,813	08/06/2001	Michael L. Howard	2291.2.17	8847
21552 7590 12/09/2009 AUSTIN RAPP & HARDMAN 170 South Main Street, Suite 735 SALT LAKE CITY, UT 84101				
EXAMINER				
DEAN, RAYMOND S				
ART UNIT		PAPER NUMBER		
2618				
NOTIFICATION DATE		DELIVERY MODE		
12/09/2009		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

[usptocorrespondence@austin-rapp.com](mailto:usptocorrespondence@austin-rapp.com)

**Notice of Allowability****Application No.**

09/922,813

**Examiner**

RAYMOND S. DEAN

**Applicant(s)**

HOWARD ET AL.

**Art Unit**

2618

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERIT IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to September 4, 2009.
2. ☒ The allowed claim(s) is/are 1-4, 6, 8, 10-12, 15, 17, 19-21, 24-28, 30, 31, 33, 35, 36, 41-49, 51, 53, 58-67 and 70-73.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of the:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.  
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached  
1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.  
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.  
**Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, see pages 18 – 26 filed September 4, 2009 with respect to the rejection of the independent claims have been fully considered and are persuasive. The rejection of said claims has been withdrawn.

## **EXAMINER'S AMENDMENT**

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Wesley Austin (Reg. No. 42,273) on November 30, 2009.

**Regarding Claim 1, Please insert the phrase ",wherein the electronic devices include a thermostat" in between the word "devices" and the period "." in the last line of Claim 1.**

**Regarding Claim 25, Please insert the phrase ",wherein the electronic devices include a thermostat" in between the word "devices" and the period "." in the last line of Claim 25.**

**Regarding Claim 43, Please insert the phrase ",wherein the electronic devices include a thermostat" in between the word "devices" and the period "." in the last line of Claim 25.**

**Regarding Claim 59, Please insert the phrase ",wherein the electronic devices include a thermostat" in between the word "devices" and the period "." in line 27 of Claim 59.**

**Regarding Claim 70, Please insert the phrase ",wherein the electronic devices include a thermostat" in between the word "devices" and the period "." in the last line of Claim 70.**

**Regarding Claim 71, Please insert the phrase ",wherein the electronic devices include a thermostat" in between the word "devices" and the period "." in the last line of Claim 71.**

***Allowable Subject Matter***

3. The following is an examiner's statement of reasons for allowance:

The prior art of record fails to teach or render obvious:

**wherein each inbound message includes a device ID and wherein the memory is further programmed to search the inbound message queue for appropriate inbound messages using the device ID for one or more of the electronic devices and to transmit the appropriate inbound messages to one or more of the electronic devices, wherein the electronic devices include a thermostat**

Claims 1, 25, 43, 59, 70, 71 and their corresponding dependent claims are therefore allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAYMOND S. DEAN whose telephone number is (571)272-7877. The examiner can normally be reached on Monday-Friday 6:00-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward F. Urban can be reached on 571-272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Raymond S Dean/  
Examiner, Art Unit 2618  
Raymond S. Dean  
December 2, 2009